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SUBJECT: SWEDISH LEGAL OBSTACLES TO EXPRESSING REGRET FOR
AFTONBLADET ARTICLE

Ref: STOCKHOLM 542

Summary

1. Tensions between Israel and Sweden continue over an August 17 article in Sweden's largest tabloid newspaper, Aftonbladet, which alleged that Israeli troops harvested organs from Palestinian prisoners for sale on international markets. Press reports indicate Israel is asking for the GOS to condemn the article, but Swedish officials still say they are bound by the Constitution and unable to make such statements without serious repercussions. An opposition MP has filed a complaint with Parliament's Committee on the Constitution, arguing that the Swedish ambassador to Israel's apologetic statement constituted "interference" with the Constitution. Senior GOS officials have noted the 2006 forced resignation of a former foreign minister, who was seen as having violated the Freedom of the Press Act when she tried to close a website hosting cartoons of Mohammed. Separately, on August 23 a complaint was filed against Aftonbladet for inciting racial agitation. Comment: GOS interlocutors have told us that any expression of regret will be difficult while Israeli FM Lieberman tells the press that Swedish lack of response now is similar to Swedish silence during the Holocaust. There are also legal obstacles in Sweden to perceived governmental interference with the press. End Comment and Summary.

Why Swedish Officials Will Not Apologize

2. The Swedish Cabinet has so far declined to condemn the August 17 article, referring to the Freedom of the Press Act and the Fundamental Law on Freedom of Expression enshrined in the Constitution. Swedish Chancellor of Justice Goran Lambertz, a special prosecutor who has the sole authority to investigate press freedom issues, commented to SVT Television on August 25 that in the past, ministers have had to resign for violating these laws. (Note: In March 2006, the Social Democratic Minister of Foreign Affairs, Laila Freivalds, was pressured to resign from her office after her involvement in the closing of a website belonging to the far-right Sweden Democrats, which in the wake of the Danish Jyllands-Posten Mohammed cartoons controversy was hosting an online competition for the best Mohammed cartoon. She was never convicted of violating the law, but the political pressure--solely for being suspected of violating The Freedom of the Press Act--forced her to resign.) Aftonbladet reported to Chancellor of Justice

3. On August 23, a complaint against Aftonbladet was filed by an unknown party to Chancellor of Justice Lambertz. The Chancellor will decide whether the article constitutes racial agitation. Nils Funcke, a leading Swedish expert on legislation pertaining to freedom of speech, said he expected the case to be rejected. "The article can hardly be construed as racial agitation. There is no ethnic group targeted; the article focuses on the Israeli army, and Israel is not made up solely of Jews," Funcke told the press. He added that charges set forth by Israeli politicians that Aftonbladet's article followed in a long tradition of "blood libels"

against Jews would "not hold up" under legal scrutiny.

¶4. Separately, Lambertz yesterday told the press that government could go much further in its criticism of the article without contravening the constitution: "The government has considerable leeway in such matters. A minister can without risk say something along the lines of 'We have no reason to believe these allegations', but [he or she] would be contravening the constitution if he or she actually criticized the decision to publish the article." He went on to say, "It is not totally clear where the line is drawn. One can do quite a lot according to the Constitution, but it would still be seen as politically and judicially improper behavior. That was the case with the Mohammed cartoon and Freivalds' actions. There was no doubt that it was legal, but it was considered to be inappropriate by the Committee on the Constitution." Opposition Files Complaint "to Safeguard Constitution"

¶5. Opposition MP and Social Democratic Foreign Affairs Spokesperson Urban Ahlin filed a complaint regarding the government's actions to the Parliamentary Committee on the Constitution. According to Ahlin, the apologetic statement published by the Swedish Ambassador to Israel on her embassy's website (reftel) was "an interference" with the Swedish Constitution's Freedom of the Press Act's prohibition for censorship and Freedom of Expression. "It is not the government's task to state what is suitable to publish. This right is with the responsible publisher, and no one else," said Ahlin. The case will be reviewed by the Committee sometime in spring 2010 and the MFA cannot comment on issues during the investigation. Separately, press reports indicate the ambassador will also be investigated by the Ministry of Justice Ombudsman and the Chancellor for Justice as well.

Comment

¶6. Swedish interlocutors have told us that any expression of regret

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will be difficult as long as Israeli FM Lieberman continues to comment to the press that Swedish lack of response now is similar to Swedish silence during the Holocaust. In addition, there are legal and political obstacles in Sweden to perceived governmental interference with the press.

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